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APR 13 2006

OFFICE OF PETITIONS

In re Application of
Kasai
Application No. 10/088,228
Patent No. 6,964,605
Filed: March 19, 2002
Attorney Docket FO201T

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: DECISION GRANTING PETITION
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This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(d)" timely¹ filed on December 1, 2005 requesting that the Patent Term Adjustment be adjusted from a determination of 0 days to a determination of three hundred and eighty-six (286) days.

Applicants' petition is **GRANTED-in Part**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of one hundred and sixty-four (164). The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Applicants argue that the Office erred in asserting not granting applicant 386 days for the Office's failure to issue the application within four months of the payment of the issue fee and all other requirements being satisfied under 37 CFR 1.702(a)(4).

Applicants' argument have been considered and deemed persuasive to the extent noted herein. The Office agrees that applicants' did not receive the correct amount of time for the Office's failure meet the requirement of 37 CFR 1.702(a)(4). The Office notes that the issue fee was paid on June 24, 2005 and the Office issued the application on November 15, 2005, a three hundred and eighty-seven (387) day Office delay.² The Office erred in recording that the issue fee was paid on October 06, 2005 rather than the actual date of June 24, 2005. Accordingly, the Office erred in assessing applicants 440 days of delay and not providing applicants 387 days of Office delay. Applicant's delay in payment of the issue fee was one day not 440. Accordingly, only one day of reduction under 1.704(b) occurred for the submission of the issue fee payment. In addition, applicant did delay on two other occasions under 37 CFR 1.704(b) by periods of 28

¹Patent Issue on November 15, 2005.

²Applicants measured the delay at 386 days.

Application No. 10/088,228

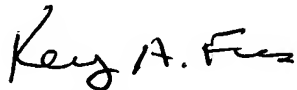
and 92 days. In addition, applicants delayed by a period of one hundred and two (102) days under 37 CFR 1.704(c)(10). Accordingly, overall the correct determination at the time of the mailing of the notice of issuance of the patent is $387-223 = 164$ days

Applicants have one month to respond to this decision. If applicants fail to respond within thirty (30) days, the Office will *sua sponte* issue a certificate of correction.

After mailing of this decisions and the elapse of thirty days from the mail date, this application will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

The Office acknowledges the receipt of \$200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757

A handwritten signature in black ink, appearing to read "Kery A. Fries". The signature is fluid and cursive, with the first name "Kery" being more prominent.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,964,605 B2

DATED : Nov. 15, 2005

INVENTOR(S) : Kasai et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0 days" and insert – by 164 days--